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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 3015

(By Delegates Michael, Proudfoot, Douglas and Doyle)



Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

2001 MAY -2 A 11: 19

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COMMITTEE SUBSTITUTE

FOR

H. B. 3015

(BY DELEGATES MICHAEL, PROUDFOOT, DOUGLAS AND DOYLE)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article eighteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the power of the state rail authority to enter contracts and agreements; authorizing the acquisition of rolling stock and equipment of a specified value in lieu of meeting contract requirements otherwise imposed on spending units; raising the cost threshold under which certain lowest responsible bidders on contracts may be selected; and requiring legislative rules.

Be it enacted by the Legislature of West Virginia:

That section six, article eighteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 18. WEST VIRGINIA STATE RAIL AUTHORITY.

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§29-18-6. Powers, duties and responsibilities of authority generally.

1 The West Virginia state rail authority is hereby granted, has
2 and may exercise all powers necessary or appropriate to carry
3 out and effectuate its corporate purpose.

4 (a) The authority may:

5 (1) Adopt, and from time to time, amend and repeal bylaws
6 necessary and proper for the regulation of its affairs and the
7 conduct of its business and propose rules for legislative
8 approval in accordance with the provisions of article three,
9 chapter twenty-nine-a of this code, to implement and make
10 effective its powers and duties.

11 (2) Adopt an official seal.

12 (3) Maintain a principal office and, if necessary, regional
13 suboffices at locations properly designated or provided.

14 (4) Sue and be sued in its own name and plead and be
15 impleaded in its own name, and particularly to enforce the
16 obligations and covenants made under sections ten, eleven and
17 sixteen of this article. Any actions against the authority shall be
18 brought in the circuit court of Kanawha County. The location
19 of the principal office of the authority shall be determined by
20 the governor.

21 (5) Make loans and grants to governmental agencies and
22 persons for carrying out railroad projects by any governmental
23 agency or person and, in accordance with chapter twenty-nine-a
24 of this code, propose rules for legislative approval and proce-
25 dures for making such loans and grants.

26 (6) Acquire, construct, reconstruct, enlarge, improve,
27 furnish, equip, maintain, repair, operate, lease or rent to or

28 contract for operation by a governmental agency or person,
29 railroad projects and, in accordance with chapter twenty-nine-a
30 of this code, propose legislative rules for the use of these
31 projects.

32 (7) Make available the use or services of any railroad
33 project to one or more persons, one or more governmental
34 agencies, or any combination thereof.

35 (8) Issue railroad maintenance authority bonds and notes
36 and refunding bonds of the state, payable solely from revenues
37 as provided in section ten of this article unless the bonds are
38 refunded by refunding bonds, for the purpose of paying any part
39 of the cost of one or more railroad projects or parts thereof.

40 (9) Acquire, by gift or purchase, hold and dispose of real
41 and personal property in the exercise of its powers and the
42 performance of its duties as set forth in this article.

43 (10) Acquire in the name of the state, by purchase or
44 otherwise, on terms and in the manner it considers proper, or by
45 the exercise of the right of eminent domain in the manner
46 provided in chapter fifty-four of this code, rail properties and
47 appurtenant rights and interests necessary for carrying out
48 railroad projects.

49 (11) (A) Make and enter into all contracts and agreements
50 and execute all instruments necessary or incidental to the
51 performance of its duties and the execution of its powers
52 including, but not limited to, the power to make contract and
53 agreements in accordance with the provisions set forth in
54 paragraph (B) of this subdivision.

55 (B) Make and enter into contracts and agreements to
56 acquire rolling stock or equipment with a value of one hundred
57 thousand dollars or less exempt from the provisions of article
58 three, chapter five-a of this code.

59 (i) The authority shall propose rules for legislative approval
60 in accordance with the provisions of article three, chapter
61 twenty-nine-a of this code which set forth the methods for
62 determining value of rolling stock or equipment to be purchased
63 in accordance with the provisions of paragraph B of this
64 subdivision.

65 (C) Where rolling stock, equipment or trackage of the
66 authority is in need of immediate maintenance, repair or
67 reconstruction in order to avoid a cessation of its operations,
68 economic loss, the inability to provide essential service to
69 customers or danger to authority personnel or the public, the
70 following requirements and procedures for entering into the
71 contract or agreement to remedy the condition shall be in lieu
72 of those provided in article three, chapter five-a of this code or
73 any legislative rule promulgated pursuant thereto:

74 (i) If the cost under the contract or agreement involves an
75 expenditure of more than one thousand dollars, but ten thousand
76 dollars or less, the authority shall award the contract to or enter
77 into the agreement with the lowest responsible bidder based
78 upon at least three oral bids made pursuant to the requirements
79 of the contract or agreement.

80 (ii) If the cost under the contract or agreement, other than
81 one for compensation for personal services, involves an
82 expenditure of more than ten thousand dollars, but one hundred
83 thousand dollars or less, the authority shall award the contract
84 to or enter into the agreement with the lowest responsible
85 bidder based upon at least three bids, submitted to the authority
86 in writing on letterhead stationery, made pursuant to the
87 requirements of the contract or agreement.

88 (D) Notwithstanding any other provision of this code to the
89 contrary, a contract or lease for the operation of a railroad
90 project constructed and owned by the authority or an agreement

91 for cooperation in the acquisition or construction of a railroad
92 project pursuant to section sixteen of this article is not subject
93 to the provisions of article three, chapter five-a of this code or
94 any legislative rule promulgated pursuant thereto, and the
95 authority may enter into the contract or lease or the agreement
96 pursuant to negotiation and upon such terms and conditions and
97 for a period of time as it finds to be reasonable and proper
98 under the circumstances and in the best interests of proper
99 operation or of efficient acquisition or construction of the
100 railroad project.

101 (E) The authority may reject any and all bids. A bond with
102 good and sufficient surety, approved by the authority, is
103 required of all contractors in an amount equal to at least fifty
104 percent of the contract price, conditioned upon the faithful
105 performance of the contract.

106 (12) Appoint a director and employ managers, superinten-
107 dents and other employees and retain or contract with consult-
108 ing engineers, financial consultants, accountants, attorneys and
109 other consultants and independent contractors as are necessary
110 in its judgment to carry out the provisions of this article, and fix
111 the compensation or fees thereof. All expenses thereof are
112 payable from the proceeds of railroad maintenance authority
113 revenue bonds or notes issued by the authority, from revenues
114 and funds appropriated for this purpose by the Legislature or
115 from grants from the federal government which may be used for
116 such purpose.

117 (13) Receive and accept from any state or federal agency,
118 grants for or in aid of the construction of any railroad project or
119 for research and development with respect to railroads and
120 receive and accept aid or contributions from any source of
121 money, property, labor or other things of value, to be held, used
122 and applied only for the purposes for which the grants and
123 contributions are made.

124 (14) Engage in research and development with respect to
125 railroads.

126 (15) Purchase fire and extended coverage and liability
127 insurance for any railroad project and for the principal office
128 and suboffices of the authority, insurance protecting the
129 authority and its officers and employees against liability, if any,
130 for damage to property or injury to or death of persons arising
131 from its operations and be a member of, and to participate in,
132 the state workers' compensation program.

133 (16) Charge, alter and collect rates, rentals and other
134 charges for the use or services of any railroad project as
135 provided in this article.

136 (17) Do all acts necessary and proper to carry out the
137 powers expressly granted to the authority in this article.

138 (b) In addition, the authority has the power to:

139 (1) Acquire rail properties both within and not within the
140 jurisdiction of the interstate commerce commission and rail
141 properties within the purview of the federal Regional Rail
142 Reorganization Act of 1973, any amendments to it and any
143 other relevant federal legislation.

144 (2) Enter into agreements with owners of rail properties for
145 the acquisition of rail properties or use, or both of rail proper-
146 ties upon the terms, conditions, rates or rentals that can best
147 effectuate the purposes of this article.

148 (3) Acquire rail properties and other property of a railroad
149 in concert with another state or states as is necessary to ensure
150 continued rail service in this state.

151 (4) Establish a state plan for rail transportation and local
152 rail services.

153 (5) Administer and coordinate the state plan.

154 (6) Provide in the state plan for the equitable distribution of
155 federal rail service continuation subsidies among state, local
156 and regional transportation authorities.

157 (7) Promote, supervise and support safe, adequate and
158 efficient rail services.

159 (8) Employ sufficiently trained and qualified personnel for
160 these purposes.

161 (9) Maintain adequate programs of investigation, research,
162 promotion and development in connection with the purposes
163 and to provide for public participation therein.

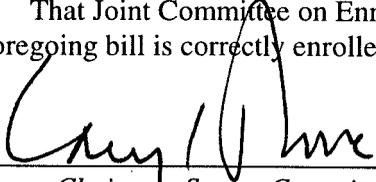
164 (10) Provide satisfactory assurances on behalf of the state
165 that fiscal control and fund accounting procedures will be
166 adopted by the state necessary to assure proper disbursement of
167 and accounting for federal funds paid to the state as rail service
168 continuation subsidies.

169 (11) Comply with the regulations of the secretary of
170 transportation of the United States department of transportation
171 affecting federal rail service continuation programs.

172 (12) Do all things otherwise necessary to maximize federal
173 assistance to the state under Title IV of the federal Regional
174 Rail Reorganization Act of 1973, and to qualify for rail service
175 continuation subsidies pursuant to the federal Regional Rail
176 Reorganization Act of 1973.

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That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



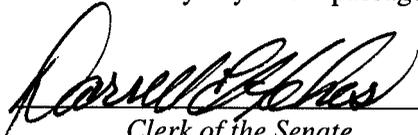
Chairman Senate Committee



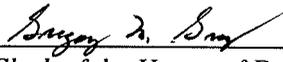
Chairman House Committee

Originating in the House.

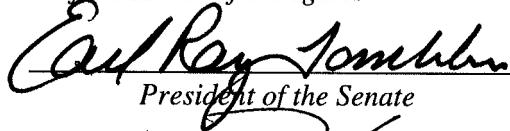
In effect ninety days from passage.



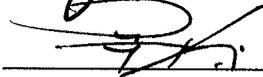
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 1st
day of May, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/01

Time 5:30p